

SECTION 4: REVIEW AND APPROVAL PROCEDURES FOR MINOR SUBDIVISION

- A. General.** Subdivisions containing five or fewer are minor subdivisions.
- i. First minor subdivisions shall be reviewed pursuant to this section and subsequent minor subdivisions shall be reviewed pursuant to Section 3.
 - ii. Subsequent Minor Subdivisions. A Subsequent Minor Subdivision is any subdivision with five or fewer lots that is not a first minor subdivision. Subsequent minor subdivisions shall be reviewed as major subdivisions. All the requirements and procedures of Section 3 of these Regulations must be followed for subsequent minor subdivisions, however, a park dedication is not required.
- B. Pre-Submittal Meeting.** To provide assistance in the minor subdivision review process, the planning department is available to meet with the subdivider prior to submitting a subdivision application. The purpose of this meeting is to: discuss these Regulations and design standards, familiarize the subdivider with the subdivision review process, identify goals and objectives of applicable plans, regulations, and ordinances, and discuss the proposed subdivision as it relates to these matters. If necessary, the planning department will assist the subdivider in obtaining copies of available surveys and/or plats from the Clerk and Recorder's Office.
- C. Pre-Application Review.** It is recommended that prior to submittal of a preliminary plat, the subdivider submit an application for pre-application review. The application for pre-application review should provide all of the information as set forth in these Regulations.
1. Planning Department (Planning Department) Review. Six copies of the pre-application materials are required.
 - a. Time of Review. The planning department shall review the pre-application plan within 15 working days and will provide a written response to the subdivider of the pre-application submittal.
 - b. The Planning Department shall identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision review process including, but not limited to, zoning regulations, floodplain regulations, building codes and fire codes.

- c. The Planning Department shall provide the subdivider with a list of public utilities, local, state and federal agencies, and any other entities that have an interest in the proposed subdivision and that may be contacted for comment by the Planning Department or planning board on the subdivision application. The Planning Department shall also identify the timeframes that the public utilities, agencies, and other entities are given to respond.
- d. The Planning Department shall identify particular additional information the Planning Department anticipates will be required for review of the subdivision application. This does not limit the ability of the Planning Department to request additional information at a later time.
- e. Unless the subdivider submits a subdivision application within 180 days of this pre-application meeting, the subdivider must request a new pre-application meeting prior to submitting the subdivision application.

D. First Minor Subdivision Application and Preliminary Plat Review.

- a. The subdivider shall submit to the Planning Department a completed subdivision application form and required copies (indicated on the application form) addressing these topics and containing the material described in Section 5, *Submittal Requirements*, of these Regulations. The completed subdivision application for preliminary plat review is submitted to the Planning Department and must conform to the requirements of these Regulations. The preliminary plat shall be prepared by a surveyor licensed to practice in Montana.

E. Review Process.

- a. Element Review:
 - i. Within 5 working days of receipt of a subdivision application and fee, the Planning Department shall determine whether the application contains all of the applicable materials required by Section 5, *Submittal Requirements*, of these Regulations, and shall give written notice to the subdivider of the determination.
 - A. If the Planning Department determines that elements are missing from the application, the Planning Department shall return the application and identify those elements in the notification, and no further action shall be taken on the application by the Planning Department until the

application is resubmitted.

- B. The subdivider may correct the deficiencies and resubmit the application.
- C. If the subdivider corrects the deficiencies and resubmits the application the Planning Department shall have 5 working days to notify the subdivider whether the resubmitted application contains all the materials required, as applicable.
- D. This process shall be repeated until the subdivider submits an application containing all the materials required, or the application is withdrawn.

b. Sufficiency Review:

- i. Within 15 working days after the Planning Department notifies the subdivider that the application contains all of the required elements as provided in subsection (a) above, the Planning Department shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under these regulations and shall give written notification to the subdivider of the Planning Department's determination.
 - A. If the Planning Department determines that the information in the application is not sufficient to allow for review of the proposed subdivision, the Planning Department shall identify specific required information in its notification and return the application to the subdivider, and no further action shall be taken on the application by the Planning department until the material is resubmitted.
 - B. The subdivider may correct the deficiencies and resubmit the application, or withdraw the application.
 - C. If the subdivider corrects the deficiencies and resubmits the application in accordance with (i)(B) above, the Planning Department shall have 15 working days to notify the subdivider whether the resubmitted application and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed subdivision under these Regulations.

- D. This process shall be repeated until the subdivider submits an application that contains detailed, supporting information that is sufficient for review of the proposed subdivision under the provisions of these Regulations, or the application is withdrawn.
- ii. A determination that an application contains sufficient information for review as provided in this subsection (b) does not ensure that the proposed subdivision will be approved or conditionally approved by the County Commission and does not limit the ability of the Planning Department, planning board, or the County Commission to request additional information during the review process.
- iii. A determination of sufficiency by the Planning Department pursuant to this subsection does not limit the MDEQ from requiring additional water and sanitation information as part of the MDEQ review of water and sanitation information.
- c. Applicable Regulations. Subdivision review and approval, conditional approval or denial shall be based on those regulations in effect at the time a subdivision application and preliminary plat is deemed to contain sufficient information for review. If regulations change during the element or sufficiency review, the determination of whether the application contains the required elements and sufficient information, and the subdivision review, shall be based on the new regulations.
- d. Affected Agencies. The Planning Department may submit copies of the preliminary plat and supplementary information to the affected utilities and public agencies for review and comment. If the proposed subdivision is situated within a rural school district, the Planning Department shall provide an informational copy of the preliminary plat to the school district. A rural school district means a school district in which a majority of the pupils in the district reside outside the limits of any incorporated city or town. Review by public agencies or utilities shall not delay the Commission's consideration of the preliminary plat beyond the statutory 35 working day review period. The County Commission will make these comments available to the subdivider and to the general public upon request. If, during the review of the application, the Planning Department or the planning board contacts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, the Planning Department shall notify the subdivider of the contact and the timeframe for response.

- e. Review Period and Scheduling Public Hearing. Following determination that the subdivision application is sufficient for review, the planning department will review the application and schedule a public hearing before the County Commission within the statutory 35 working day review period. Within 35 working days, the County Commission shall approve, conditionally approve or deny the proposed subdivision according to these Regulations, unless the subdivider and the Planning Department agree in writing to an extension or suspension of the review period, not to exceed one year.
- f. Public Hearing Notice: The Planning Department shall send courtesy notice with the time and date of the preliminary plat public hearing to the list of adjoining property owners of record and each recorded purchaser under contract for deed, provided by the subdivider.

F. First Minor Subdivision Exceptions.

The following do not apply to first minor subdivisions:

- a. preparation of an environmental assessment;
- b. parkland dedication;
- c. public hearing requirements; and
- d. review of the subdivision application for the impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety, *if* the subdivision is proposed in a jurisdictional area that has adopted zoning regulations that address those impacts.

G. Planning Board Consideration and Recommendation of First Minor Subdivision.

- a. The County Commission shall seek the advise of the Planning Board in all matters pertaining to the approval or disapproval of plats or subdivisions. The Planning Board may delegate the Planning Department its responsibility to advise the County Commission on any or all proposed minor subdivisions pursuant to 76-1-107, MCA.
 - i. Consideration:

In recommending approval, conditional approval or denial of the subdivision application and preliminary plat, the planning board

shall base its recommendation on compliance of the subdivision application and preliminary plat with the following:

- A. the subdivision application and preliminary plat;
- B. the summary of probable impacts and mitigation;
- C. the Gallatin County Growth Policy;
- D. Planning Department's staff report; and
- E. any additional information authorized by law.

ii. Written Recommendation:

- A. If applicable, prior to the County Commission public hearing, the planning board may submit a recommendation of approval, conditional approval (including any recommended conditions or mitigation measures), or denial of the subdivision application based on the evidence presented and discuss the subdivision's compliance with these Regulations and impact on the primary criteria (76-3-608(3)(a), MCA.
- B. a recommendation for approval or denial of any requested variances.
- C. The planning board shall collect and forward all comments regarding water and sanitation to the County Commission.

H. Subdivider's Preference for Mitigation. If a Planning Board recommendation was provided, the subdivider may, no later than two working days before the hearing at which the County Commission is to consider the subdivision application and preliminary plat, submit in writing to the Planning Department the subdivider's comments on and responses to the Planning Board's recommendations. At the public hearing, the County Commission will consult with the subdivider and will give due weight and consideration to the subdivider's expressed preference. The Commission may require the subdivider to design the subdivision to reasonably minimize potentially significant adverse impacts identified through the review required by these Regulations. The Commission shall issue written findings to justify the reasonable mitigation required by these Regulations.

- a. In reviewing a subdivision under this section and when requiring

mitigation under this subsection, the Commission may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the plat.

I. Amended Applications - First Minor Subdivisions Applications.

- a. If the subdivider changes the subdivision application or preliminary plat before the County Commission makes its decision, the subdivider shall submit the amended application or preliminary plat to the Planning Department for review.
 - i. Within 5 working days of receiving the amended application or preliminary plat, the Planning Department shall determine whether the changes to the subdivision application or preliminary plat are material, as determined in subsection (c) below.
 - ii. The 35-working day review period is suspended while the Planning Department considers the amended application or preliminary plat.
 - iii. If the Planning Department determines the changes are not material, the 35-working day review period resumes when the Planning Department mails notice of the decision to the subdivider.
 - iv. If the Planning Department determines the changes are material, the Planning Department shall require the subdivider to schedule a new pre-application meeting and resubmit the application and preliminary plat as a new subdivision application.
- b. By making changes to a pending subdivision application or preliminary plat, the subdivider consents to suspension of the review period as provided in subsection (a)(ii).
- c. The following changes, although not an exhaustive list, may be considered material:
 - i. configuration or number of lots;
 - ii. road layout;
 - iii. water and/or septic proposals;
 - iv. configuration of park land or open spaces;
 - v. easement provisions; and

- vi. designated access.
- d. A subdivider whose subdivision application or preliminary plat has been deemed materially changed by the Planning Department may appeal the Planning Department's decision to the County Commission. The subdivider may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.
 - i. The 35-working day review period is suspended until the County Commission decision on the appeal is made.
 - ii. If the County Commission concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are material, the County Commission shall require the subdivision application and preliminary plat to be resubmitted pursuant to subsection (a)(iv).
 - iii. If the County Commission concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are *not* material, the 35-working day review period resumes as of the date of the decision.
 - iv. By appealing the decision of the Planning Department, the subdivider agrees to suspension of the 35-working day review period provided in subsection (d)(i).

J. County Commission Hearing- General.

- a. After the planning board makes its recommendation (if applicable), the County Commission shall hold a public hearing on the subdivision application.
- b. All comments and documents regarding the subdivision shall be submitted to the Planning Department, rather than to the County Commission directly, to be forwarded to the County Commission.

K. County Commission Decision and Documentation of a First Minor Subdivision.

- a. Prerequisites to Approval:

The County Commission may not approve or conditionally approve a subdivision application and preliminary plat unless the proposed subdivision:

- i. provides easements for the location and installation of any planned utilities.
- ii. provides legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel.
- iii. assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section 8 of these Regulations.
- iv. assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights has been considered and will be accomplished before the final plat is submitted.
- v. assures that the requirements of 76-3-504(1)(k), MCA regarding watercourse and irrigation easements has been considered and will be accomplished before the final plat is submitted.
- vi. Provides for the appropriate park dedication or cash-in-lieu.

b. Consideration-Standards:

In approving, conditionally approving, or denying a subdivision preliminary plat, the County Commission shall consider subsection (a) above, and whether the proposed subdivision complies with:

- i. these Regulations, including, but not limited to, submittal requirements of Section 5 and the standards set forth in Sections 6 and 7 of these Regulations;
- ii. applicable zoning regulations;
- iii. other applicable regulations;
- iv. the MSPA, all subdivisions are evaluated for their effect on agriculture, agricultural water user facilities, local services, natural environment, wildlife and wildlife habitat, and public health and safety, along with all other elements of the Growth Policy

c. Considerations-Evidence:

In making its decision to approve, conditionally approve, or deny a proposed subdivision, the County Commission shall consider and weigh the following, as applicable:

- i. the subdivision application and preliminary plat;
- ii. the summary of probable impacts and mitigation;
- iii. the Gallatin County Growth Policy. Note the Commission may not withhold, deny, or impose conditions on a subdivision based solely on compliance with the officially adopted Gallatin County Growth Policy (Section 76-1-605(2)(b), MCA). When a subdivision is proposed in an area subject to the Gallatin County Growth Policy, the Commission shall review the preliminary plat for compliance with the goals and applicable policies (Chapter 3), and the Land Use Diagram (Chapter 10) of the Growth Policy, as described below:
 1. Protect Water Quality.
 - Whether the proposed development minimizes adverse impacts on rivers, streams and riparian areas.
 - Whether the proposed development demonstrates compliance with local, State and Federal water quality regulations and standards.
 - Whether the proposed development mitigates adverse impacts to neighboring properties, rivers, streams and riparian areas due to runoff.
 2. Assure Sustained Water Quantity.
 - Whether the proposed development assesses both the immediate and long-term, cumulative impacts on water quantity.
 - Whether the proposed development documents adequate water quantity.
 3. Conserve Important Fish, Wildlife and Plant Habitat.
 - Whether the proposed development conserves important habitat by promoting open space corridors for identified wildlife migration corridors and by buffering important habitat areas.

4. Protect Air Quality.
 - Whether the proposed development protects air quality and reduces particulate matter by supporting dust control plans for unpaved roads and by minimizing vehicle miles traveled.
5. Minimize Soil Erosion.
 - Whether the proposed development supports erosion and sediment control measures during road construction.
 - Whether the proposed development complies with re-vegetation and weed control plans as prescribed by the Gallatin County Weed Department through proper weed management plans and memorandums of understanding.
6. Conserve Open Space.
 - Whether the proposed development conserves and preserves open space by complying with plans for parks, recreation, open space and trails, and by supporting the dedication of parks, recreation, open space and trails that are adjacent to or continuations of existing or planned parks, recreation, open space, trails, public lands and riparian areas.
7. Encourage Residential Development in Areas Planned or Zoned for Residential Use.
 - Whether the proposed development documents consistency with the Growth Policy; mitigation of adverse impacts; provision of adequate local services and public facilities; compatibility with existing uses and natural environment; and, compatibility with the logical expansion of local services and public facilities.
 - Whether the proposed development avoids leapfrog development (where new residential land uses are separated from existing urban, compact land use areas).
 - Whether the proposed residential development is located adjacent to existing developed land, and that does not foster sprawl development by: supporting infill development of established neighborhoods, and within Urban and Community designated areas; supporting development within or adjacent to existing developed area; discouraging new development beyond urban and suburban development (leapfrog); and, supporting

- urban and suburban density land use patterns that are not energy and land consumptive, and do not require a high ratio of road surface to development served.
- Whether the proposed residential development is clustered and compatible with existing developed land.
8. Locate Commercial and Light Industrial Development in Areas Planned or Zoned for that Usage.
- Whether the proposed development documents and provides adequate infrastructure (transportation, power, sewer and water facilities, etc.) for new commercial and light industrial development.
 - Whether the proposed development prevents the encroachment of industrial uses into residential areas.
 - Whether the proposed development documents consistency with the Growth Policy and appropriate regulations; suggests mitigation of adverse impacts; and sets forth: availability of adequate local services and public facilities, compatibility with existing uses and natural environment, and, compatibility with logical expansion of local services and public facilities.
9. Manage Heavy Industrial Development.
- Whether the proposed heavy industrial development is located in an area that has minimal adverse impact on other uses.
 - Whether the proposed heavy industrial development documents consistency with the Growth Policy and appropriate regulations; suggests mitigation of adverse impacts, and sets forth: availability of adequate local services and public facilities; compatibility with existing uses and natural environment; and, compatibility with logical expansion of local services and public facilities.
10. Protect Historic and Pre-Historic Features.
- Whether the proposed development documents efforts to protect historic features.
11. Conserve Scenic Resources and Views.
- Whether the proposed development documents efforts to conserve scenic resources and views by addressing ridge tops and hillsides, signage, off-premise advertising, light pollution, telecommunication towers and landscape buffers.

12. Provide a Safe and Efficient Transportation System.
 - Whether the proposed development is consistent with the countywide trails plan.
 - Whether the proposed development provides coordinated circulation patterns.
 - Whether the proposed development documents mitigation of dust, noise, and general safety related to speed, intersections, and pedestrian crossings.
13. Provide for Local Services and Public Facilities.
 - Whether the proposed development provides for fire protection and medical emergency services.
 - Whether the proposed development provides for solid waste disposal.
 - Whether the proposed development complies with plans for parks, recreation, open space, and trails.
 - Whether the proposed development addresses adequate law enforcement.
14. Provide Cost Effective Extension of Public Facilities and Local Services.
 - Whether the proposed development addresses a contribution for its appropriate share of the costs of impacts on public facilities and local services.
15. Protect Human Life and Property From Natural Hazards.
 - Whether a proposed development on steep slopes mitigates potential hazards by prohibiting development and road building on slopes greater than 25 percent.
 - Whether the proposed development restricts development in flood hazard areas to protect property and life from flooding.
 - Whether the proposed development is sensitive to those areas prone to wildland fire, and suggests mitigation measures to protect property and life from fires.
 - Whether the proposed development identifies geologically or seismically unstable areas, and suggests mitigation of potential hazards.
16. Preserve Productive Farm and Ranch Lands.
 - Whether the proposed development is consistent with the policies to retain agricultural operations that are adjacent to other agricultural operations or permanent open space by: encouraging development to mitigate the

external effects of development on agricultural production; promoting infill and cluster developments in areas away from valuable agricultural lands; and, promoting development adjacent to or within cities, unincorporated communities, and other areas planned for such development where public facilities and infrastructure are available, and away from areas used exclusively for agriculture.

17. Protect the Right to Farm and Ranch.

- Whether the proposed development protects surface water and groundwater resources critical to agriculture.

iv. Land Use Diagram. The Gallatin County Growth Policy is accompanied by a Land Use Diagram that shows current land uses, with an eye focused on the future. The Diagram is a visual representation of trends to date, how the County has grown and how we might expect it to keep growing. The Diagram includes the following land use categories:

- Urban. Urban development around existing cities and towns.
- Unincorporated Communities. Existing unincorporated areas.
- Rural. Gallatin County's agricultural and forest areas.
- Zoned. Current Gallatin County zoning districts.

v. comments, evidence and discussions at the public hearing(s);

vi. Planning Department's staff report;

vii. planning board recommendation (if provided); and

viii. any additional information authorized by law.

Notwithstanding the foregoing, the County Commission may not consider any information regarding the subdivision application that is presented after the final public hearing (which may include a subsequent hearing if any) when making its decision to approve, conditionally approve, or deny the proposed subdivision.

d. Water and Sanitation-Special Rules:

- i. Water and sanitation information provided during the application review process, including public comment, may be used as a basis for a conditional approval or denial of a subdivision only if the

County Commission finds that the application does not comply with previously adopted subdivision, zoning, floodplain or other regulations.

- ii. For a proposed subdivision that will create one or more parcels containing less than 20 acres, the County Commission shall require approval by the MDEQ as a condition of approval of the final plat. This approval applies to the development of lots at the time of the approval and is no guarantee that a source of water or a location for a septic system or drain fields will be available when the lots are actually developed.
- iii. The County Commission shall collect public comments submitted regarding water and sanitation information and shall make any comments submitted or a summary of the comments submitted available to the subdivider within 30 days after conditional approval or approval of the subdivision application and preliminary plat.
- iv. The subdivider shall, as part of the subdivider's application for sanitation approval, forward the comments or the summary provided by the County Commission to the:
 - A. reviewing authority provided in MCA, Title 76, chapter 4, for subdivisions that will create one or more parcels containing less than 20 acres; and
 - B. local health department or board of health for proposed subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres.

L. Documentation of County Commission Decision.

- i In rendering its decision to approve, conditionally approve, or deny the proposed subdivision, the County Commission shall issue written findings of fact that discuss and weigh the proposed subdivision's compliance with the preceding subsections pursuant to 76-3-608(3), MCA):
- ii. When the County Commission approves, denies, or conditionally approves the proposed subdivision, it shall send the subdivider the written findings, with the appropriate signature, and make it available to the public. The findings document shall:
 - A. contain information regarding the appeal process for the denial or imposition of conditions;

- B. identify the regulations and statutes that are used in reaching the decision to approve, deny, or impose conditions and explain how they apply to the decision;
- C. provide the facts and conclusions that the County Commission relied upon in making its decision and reference documents, testimony, or other materials that form the basis of the decision;
- D. provide the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved; and
- E. set forth the time limit for approval.

M. Restrictive Covenants – Approval, Content and Enforcement by the County Commission.

- a. The County Commission may require that some or all restrictive covenants governing the use of land within the subdivision, whether proposed by the subdivider or required by the County Commission, be set forth in a separate heading identifying them as plat approval covenants, and indicating: “These covenant(s) may not be repealed or amended without prior written consent of the Gallatin County Commission.”
- b. The County Commission may require that all restrictive covenants it has required as a condition of plat approval contain the following language: “The Gallatin County Commission is a party to this restrictive covenant and may enforce its terms.”
- c. If common property is to be deeded to a property owners’ association, the covenants and by-laws which govern the association must, at a minimum, provide for the:
 - i. Formation of a property owners’ association concurrently with the filing of the final subdivision plat. Articles of Incorporation shall be filed with the Secretary of State’s office;
 - ii. Mandatory membership for each property owner. Purchasers of property may also be required to sign a waiver of right to protest the formation of a maintenance district to maintain improvements;
 - iii. Perpetual reservation of the common property when required under 76-3-621(6)(a), MCA;

- iv. Payment of liability insurance premiums, local taxes, and the cost of maintaining recreational or other facilities;
- v. Placement of liens on the property of lot owners who are delinquent in the payment of association fees and assessments;
- vi. Adjustment of assessments to meet changing needs;
- vii. Means of enforcing the covenants, and of receiving and processing complaints;
- vii. Transition of control of the association from the Declarant to the homeowners.
- ix. Dissolution of the association and modification of the covenants and restrictions after obtaining the governing body's approval of the change; and
- x. Regular maintenance of roads, parks, buildings, drainage facilities, and other facilities controlled by the association.

N. Subdivision Application and Preliminary Plat Approval Period.

- i. Upon approval or conditional approval of the preliminary plat, the County Commission shall provide the subdivider with a dated and signed statement of approval. The approval shall be in force for no more than three calendar years.
 - A. At least 30 days prior to the expiration of the preliminary plat approval, the County Commission may, at its discretion and at the written request of the subdivider, extend its approval for a period of one additional year.
 - B. The County Commission may extend the approval for more than one year if a longer approval period is included as a specific condition of a written Subdivision Improvements Agreement between the County Commission and the subdivider.
- ii. After the application and preliminary plat are approved, the County Commission may not impose any additional conditions as a prerequisite to final plat approval unless the preliminary plat approval expires, at which time a new application shall be required.
- iii. The County Commission may withdraw approval or conditional approval

of an application and preliminary plat if it determines that information provided by the subdivider, and upon which the approval or conditional approval was based, is inaccurate.

O. Additional Conditions After Approval. After the preliminary plat is approved, the Commission may not impose any additional conditions as a prerequisite to final plat approval, provided said approval is obtained within the original or extended approval period as provided in these Regulations.

1. At the request of the subdivider and with the concurrence of the subdivider, the Commission may modify a condition of preliminary plat approval consistent with these Regulations at a regularly scheduled meeting of the Commission.

P. Amending Approved Preliminary Plats Before Final Plat Approval.

- a. If the subdivider proposes to change the preliminary plat after the preliminary plat approval but before the final plat approval, the subdivider shall submit the proposed changes to the Planning Department for review.
 - i. Within 5 working days of receiving the proposed changes, the Planning Department shall determine whether the changes to the preliminary plat are material pursuant to subsection (b) below.
 - ii. If the Planning Department determines the changes are material, the Planning Department shall require the subdivider to begin the subdivision review process again, starting with the pre-application meeting, and require payment of a new application fee.
 - iii. If the Planning Department determines the changes are not material, the Planning Department shall accept the changes and notify the subdivider and the County Commission of its decision.
- b. The following changes, although not an exhaustive list, may be considered material:
 - i. configuration or number of lots;
 - ii. road layout;
 - iii. water and/or septic proposals;
 - iv. configuration of park land or open spaces;
 - v. easement provisions;

- vi, designated access; or
- vii. change to conditions of approval.

- c. A subdivider whose proposed changes to the preliminary plat have been deemed material by the Planning Department may appeal the decision to the County Commission by written notice within 10 working days. The subdivider may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.
- d. If the subdivider and Planning Department determine that a condition of approval appears to be illegal or impossible to comply with due to circumstances outside the subdivider's control, economic hardship notwithstanding, pursuant to Section 13 of these Regulations, the condition shall be reviewed by the County Commission at a properly noticed public hearing in order to determine if the condition may be waived or amended.

Q. Final Plat Required. After the conditions of preliminary plat approval and the requirements for the installation of improvements have been satisfied, the subdivider shall submit to the Planning Department a final plat. The Planning Department shall review the final plat to ascertain that all conditions and requirements for final plat approval have been met. The planning department will not accept, begin processing, nor schedule any actions on a final plat submittal until a complete application and fee have been received. Final plat applications will not be considered complete by the Planning Department until all conditions of preliminary plat approval have been satisfied. The final plat must be submitted prior to the expiration of the preliminary plat approval period. The requirements for the final plat content and application submittal materials are listed in Section 5 Submittal Requirements, of these Regulations.

R. Review of Abstract and Covenants. The certificate of a licensed title abstractor, a copy of the covenants, and evidence that the conditions of preliminary plat approval have been satisfied shall be submitted to the county attorney's office for their review and approval at least 30 working days prior to submitting an application for final plat approval.

S. Final Plat Review. The planning department will examine the final plat contents and required final plat application materials and recommend approval only when it conforms to the conditions set forth in the preliminary plat approval, and the terms of the Montana Subdivision and Platting Act and these Regulations.

- 1. Final Plat Submittal: The final plat and all supplementary documents shall be submitted to the planning department at least 30 working days prior to

the expiration of preliminary plat approval or any extension thereto, and no less than 10 working days prior to the date the final plat is presented to the Commission for approval. The submittal shall include: an application for final review, the appropriate fee, approval of county attorney, and all required information, and a written explanation of how each of the conditions of preliminary plat approval has been satisfied.

2. Review by the Planning Department: The planning department shall review the final plat to ascertain that all conditions and requirements for final plat approval have been met. The planning department will not accept, begin processing, nor schedule any actions on a final plat submittal until a complete application and fee have been received. Final plat applications will not be considered complete by the planning department until all conditions of preliminary plat approval have been satisfied, including but not limited to the following:
 - a. Signed final plat certificates.
 - b. Proof of payment of fire impact fees in compliance with the Gallatin County Fire Protection Impact Fee Regulation (Appendix D); or proof of payment of fee as determined by a County approved independent fee calculation study. (*Resolution 2005-168*)
 - c. Proof of payment of road impact fees in compliance with the Gallatin County Road Impact Fee Regulation (Appendix E); or proof of payment of fee as determined by a County approved independent fee calculation study. (*Resolution 2005-168*)
 - d. Fire protection requirements reviewed by the appropriate fire district or fire service area.
 - e. Signed Memorandum of Understanding between Subdivider and Weed Control District.
 - f. County or State encroachment or access permits.
 - g. Documents requiring approval of the County Attorney's Office, including but not limited to the following:
 - i. Articles of Organization or Incorporation for the Property Owners' Association, filed with the Montana Secretary of State.
 - ii. Bylaws controlling the operation of the Property Owners' Association.

- iii. Restrictive and Protective Covenants encumbering the real property contained within the subdivision.
- iv. Restrictive Deed transferring title of all common open space parcels within the subdivision to the Property Owners' Association.
- v. Declaration of Unit Ownership (condominiums).
- vi. Public road easements.
- vii. Improvements agreements.
- viii. Certificate of a licensed Title Abstractor.

T. Final Plat Approval.

- 1. Approval by the Commission: The Commission shall examine every final plat and within 30 working days of the date of submission to the planning department shall approve it if it conforms to the conditions of preliminary plat approval and the terms of these Regulations.
 - a. If the final plat is approved, the Commission shall so certify in a printed certificate on the plat.
 - b. If the final plat is disapproved, the Commission shall write the subdivider a letter stating the reasons therefore.
- 2. Filing: The subdivider shall file the approved, signed final plat and all other required certificates and documents with the Clerk and Recorder within 60 days of the date of final approval.

U. Resubmittal of a Denied Subdivision. Following denial of a preliminary plat application by the Commission, a new application for the same property may not be submitted unless the following criteria are met:

- 1. The new preliminary plat application must clearly address or mitigate health and safety issues and/or design standards which were the basis of the original preliminary plat denial; and
- 2. The new preliminary plat application must clearly address the six (6) criteria under 76-3-608(3)(a); and
- 3. The new preliminary plat application must comply with any adopted zoning regulation or growth policy.

V. Final Plat Filing.

After it is approved, the final plat may not be altered in any manner unless amending the final plat. The County Clerk and Recorder may not accept any plat for filing that does not bear the County Commission's approval in proper form or that has been altered. The Clerk and Recorder may file an approved plat only if it is accompanied by the documents specified in the Montana Uniform Standards for Monumentation, and Final Subdivision Plats, contained in Appendix C.

W. Amending Filed Plats.

- a. Changes that materially alter any portion of a filed plat, its land divisions or improvements, or that will modify the approved use of land within the subdivision, must be made by filing an amended plat showing all alterations. Any alteration which increases the number of lots or modifies six or more lots, or abandons or alters a public road right-of-way or parkland dedication must be reviewed and approved by the County Commission.
- b. An amended plat is subject to the procedures for reviewing major or minor subdivisions, as appropriate. The County Commission may not approve an amended final plat without the written consent of the owners and lienholders of all lots which will be modified by the proposed amendment.
- c. The County Commission may not approve an amendment that will place a lot in non-conformance with the standards of these Regulations or with local zoning regulations unless the County Commission holds a public hearing on the amendment and issues a written variance from the standards.
- d. The final amended plat submitted for approval must comply with the Final Plats (Appendix A).